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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,484	06/25/2001	Wade Lee	13.041	9387

9651 7590 05/17/2004
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EXAMINER

COURSON, TANIA C

ART UNIT	PAPER NUMBER
2859	

DATE MAILED: 05/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	09/891,484	Applicant(s)	LEE, WADE
Examiner	Tania C. Courson	Art Unit	2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 06 January 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 2-5, 8, 9 and 11-13 is/are pending in the application.
4a) Of the above claim(s) 6, 7 and 10 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 2-5, 8, 9 and 11-13 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 25 June 2001 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
- Certified copies of the priority documents have been received.
 - Certified copies of the priority documents have been received in Application No. _____.
 - Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- Notice of References Cited (PTO-892)
- Notice of Draftsperson's Patent Drawing Review (PTO-948)
- Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- Notice of Informal Patent Application (PTO-152)
- Other: _____

Reopening of Prosecution After Appeal

1. In view of the appeal brief filed on January 6, 2004, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.
2. To avoid abandonment of the application, appellant must exercise one of the following two options:
 - a. file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
 - b. request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1,130, 1.131, or 1.132) or other evidence are permitted. See 37 CFR 1.193 (b)(2).

Election/Restrictions

3. The election requirement stated in a previous office action (Paper No. 5) is hereby repeated, and thus maintained **FINAL**.
4. Claims 6-7 and 10 are maintained withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected group, there being no allowable generic or linking claim. Election was made, for the species shown in Figs. 1 and 2a, **without** traverse in Paper No. 5.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2-5, 8-9 and 11-13 are rejected under 35 U. S. C. 103 (a) as being unpatentable over a worklight described in the specification, specifically page 1, lines 5-15, filed on June 25, 2001 in the Patent Application Serial Number 09/891,484 and further in Applicant's Declaration under 37 CFR 1.132 filed on May 20, 2003 [hereinafter Prior Art] in view of Gilpin et al. (GB 2,348,703 A) and Lerner (US 6,639,190 B2).

The Prior art discloses a worklight and states that the exterior surface tends to get hot to human touch and that heat resistant printed labels have been adhered to the exterior surface of the worklight as a warning indicator, as claimed by the applicant with the exception of the warning indicator being a thermochromic warning indicator.

With respect to a transparent protective covering/substrate disposed in a readily visible location at at least one exterior surface, a thermochromic substance disposed between said transparent protective covering and said at least one exterior surface and a thermal moderator disposed between said thermochromic substance and said at least one exterior surface, wherein said thermochromic substance in thermal communication with at least a portion of at least one

exterior surface through said thermal moderator, said thermochromic substance being formulated to undergo a conspicuous color change in response to heat from said at least one exterior surface during normal operation, said indicator being structured and arranged to display an indication, wherein said thermochromic substance is carried on said transparent protective covering/substrate, said transparent protective covering/substrate is disposed with respect to said at least one exterior surface so as to place said thermochromic substance in thermal communication with at least a portion thereof, a warning indicia carried on said transparent protective covering/substrate, and wherein said thermochromic substance is normally substantially opaque at room temperature so as to substantially obscure said indicia and turns transparent in response to said heat from said at least one exterior surface so as to expose said indicia, and said thermochromic substance and said indicia are carried on the underside of said transparent protective covering/substrate, whereby said transparent protective covering/substrate provides a protective covering for said thermochromic substance and indicia, wherein said thermochromic substance forms a layer on the underside of said transparent protective covering/substrate, said indicia are applied to the underside of said layer, and said transparent protective covering/substrate with said thermochromic layer and indicia are adhered in position at said at least one exterior surface with the undersides thereof directed toward said at least one exterior surface. Gilpin et al. teach a temperature activatable indicia reveal indicator that consists of a transparent protective covering/substrate disposed in a readily visible location at at least one exterior surface (the Figure, clear cover 1), a thermochromic substance disposed between said transparent protective covering and said at least one exterior surface (the Figure, thermochromic substance 3) and a thermal moderator disposed between said thermochromic substance and said at least one exterior

surface (the Figure, adhesive 4), wherein said thermochromic substance in thermal communication with at least a portion of at least one exterior surface through said thermal moderator (the Figure), said thermochromic substance being formulated to undergo a conspicuous color change in response to heat from said at least one exterior surface during normal operation (specification, page 1, lines 18-24), said indicator being structured and arranged to display an indication (the Figure), wherein said thermochromic substance is carried on said transparent protective covering/substrate (the Figure), said transparent protective covering/substrate is disposed with respect to said at least one exterior surface so as to place said thermochromic substance in thermal communication with at least a portion thereof (the Figure), a warning indicia carried on said transparent protective covering/substrate (the Figure and the specification, page 2, lines 10-15), and wherein said thermochromic substance is normally substantially opaque at room temperature so as to substantially obscure said indicia and turns transparent in response to said heat from said at least one exterior surface so as to expose said indicia (the Figure and the specification, page 2, lines 10-15), and said thermochromic substance and said indicia are carried on the underside of said transparent protective covering/substrate (the Figure), whereby said transparent protective covering/substrate provides a protective covering for said thermochromic substance and indicia (the Figure), wherein said thermochromic substance forms a layer on the underside of said transparent protective covering/substrate (the Figure), said indicia are applied to the underside of said layer (the Figure and the specification, page 2, lines 10-15), and said transparent protective covering/substrate with said thermochromic layer and indicia are adhered in position at said at least one exterior surface with the undersides thereof directed toward said at least one exterior surface (the Figure). Therefore it would have

been obvious to a person having ordinary skill in the art at the time the invention was made to further modify the worklight with a warning indicator of the Prior Art, so as to include a thermochromic indicator including a transparent protective covering/substrate, a thermochromic substance, a thermal moderator and indicia, as taught by Gilpin et al., so as to provide a means of concealing indicia from an observer until necessary during use of the device.

With respect to a thermochromic substance undergoing a conspicuous color change revealing an indication that at least one exterior surface is of a temperature hot to human touch and at least one exterior surface is formed with a recessed area sized to receive an indicator such that the outer surface of said covering is substantially flush with said at least one exterior surface, Lerner teaches a heat warning device that consists of a thermochromic substance undergoing a conspicuous color change revealing an indication that at least one exterior surface is of a temperature hot to human touch (Fig. 19) and at least one exterior surface is formed with a recessed area sized to receive an indicator such that the outer surface of said covering is substantially flush with said at least one exterior surface (Fig. 10). Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to further modify the worklight with a warning indicator of the Prior Art, so as to include a warning indicator undergoing a conspicuous color change revealing an exterior surface is of a temperature hot to human touch and recessed area for said warning indicator as taught by Lerner, so as to provide a detachable heat alert safety device for any hot surface (column 1, lines 11-12).

Response to Arguments

7. Applicant's arguments filed on January 6, 2004 have been considered but are moot in view of the new ground(s) of rejection.

8. The Declaration under 37 CFR 1.132 filed May 20, 2003 remains insufficient to overcome the rejection of claims 2-5, 8-9 and 11-13 based upon a 35 USC § 103 rejection as set forth in this Office action.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The prior art cited on PTO-892 and not mentioned above disclose a warning indicator:

Leutner et al. (US 2002/0043261 A1)

Ronci (US 2002/0097777 A1)

Klima, Jr. (US 5,997,964)

Quigley et al. (US 5,520,385)

Wells (US 1,692,012)

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tania C. Courson whose telephone number is (571) 272-2239.

The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez, can be reached on (571) 272-2245.

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The fax number for this Organization where this application or proceeding is assigned is
(703) 872-9306.



DIEGO F.F. GUTIERREZ
SUPERVISORY PATENT EXAMINER
GROUP ART UNIT 2859

TCC
May 7, 2004

CHRISTOPHER W. FULTON
PRIMARY EXAMINER